



## 11 CFR Parts 104 and 109

[Notice 2021-11]

### Rulemaking Petition: Subvendor Reporting

**AGENCY:** Federal Election Commission.

**ACTION:** Rulemaking Petition: Notification of Availability.

**SUMMARY:** On June 29, 2021, the Federal Election Commission received a Petition for rulemaking asking the Commission to amend its existing regulations regarding reporting expenditures and certain other disbursements. The proposed amendments would require political committees and persons who make independent expenditures and electioneering communications to itemize certain payments made by vendors to others on behalf of the reporting entities.

**DATES:** Comments must be submitted on or before [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** All comments must be in writing. Commenters may submit comments electronically via the Commission's website at <http://sers.fec.gov/fosers/>, reference REG 2021-02.

Each commenter must provide, at a minimum, his or her first name, last name, city, and state. All properly submitted comments, including attachments, will become part of the public record, and the Commission will make comments available for public viewing on the Commission's website and in the Commission's Public Records Office. Accordingly, commenters should not provide in their comments any information that they do not wish to make public, such as a home street address, personal email address, date of birth, phone number, social security number, or driver's license number, or any information that is restricted from disclosure, such as trade secrets or commercial or financial information that is privileged or confidential.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert M. Knop, Assistant General Counsel, or Ms. Joanna S. Waldstreicher, Attorney, Office of the General Counsel, at [subvendorreporting@fec.gov](mailto:subvendorreporting@fec.gov).

**SUPPLEMENTARY INFORMATION:** On June 29, 2021, the Commission received a Petition for Rulemaking from the Campaign Legal Center and the Center on Science & Technology Policy at Duke University (“Petition”). The Petition asks the Commission to amend its regulations at 11 CFR 104.3(b), 109.10(e), and 104.20(c), to require that persons filing reports under those sections itemize all expenditures or disbursements made on behalf of or for the benefit of the political committee or other reporting person, including those made by an agent, independent contractor, vendor, or subvendor.

The Federal Election Campaign Act (the “Act”) and Commission regulations require that political committees disclose the name and address of each person to whom expenditures or certain other disbursements aggregating over \$200 are made, as well as certain information about each expenditure or disbursement. 52 U.S.C. 30104(b)(5)(A), (b)(6)(B)(v); 11 CFR 104.3(b)(3)(i), (b)(4)(i). The Act and Commission regulations also require that disbursements aggregating over \$200 for independent expenditures and electioneering communications similarly be disclosed. 52 U.S.C. 30104(b)(6)(B)(iii), (c)(2)(A); 11 CFR 109.10(e)(1)(ii-iii) (independent expenditures); 52 U.S.C. 30104(f)(2)(C); 11 CFR 104.20(c)(4) (electioneering communications).

The Petition notes that “if a disclosed vendor subcontracts with a third party, the payment to the subcontractor might not be disclosed,” Petition at 1, and asserts that “a substantial portion of FEC-reported political spending now consists of large payments to a small number of consulting firms that disguise where political money is ultimately going.” Petition at 3. The Petition asserts that this lack of disclosure about the ultimate recipients and purposes of political spending has a number of negative consequences: it “deprives voters of information they use to assess candidates and cast informed votes,” Petition at 4; it “becomes nearly impossible for

researchers and academics to monitor digital political ad practices,” *id.*; it allows reporting entities to “disguise FECA violations, such as violations of the personal use ban” and “evidence of common vendor coordination between an authorized committee and a super PAC,” Petition at 5; and it can “provide further cover for so-called ‘scam PACs,’” Petition at 6.

The Petition asks the Commission to amend 11 CFR 104.3(b) to require additional disclosure by political committees, by adding a new subparagraph (5) that reads:

(5)(i) Any person reporting expenditures or disbursements under this section must report expenditures or disbursements made by an agent or independent contractor, including any vendor or subvendor, on behalf of or for the benefit of the reporting person.

(ii) An agent or contractor, including a vendor or subvendor, who makes an expenditure or disbursement on behalf of or for the benefit of a reporting committee or person that is required to be reported under this section shall promptly make known to the reporting committee or person all the information required for reporting the expenditure or disbursement.

Petition at 6-7.

The Petition also asks the Commission to amend sections 109.10(e)(1) and 104.20(c) to add similar language requiring additional disclosure in relation to independent expenditures and electioneering communications, respectively.

The Commission seeks comment on the Petition. The public may inspect the Petition on the Commission’s website at <http://sers.fec.gov/fosers/>.

The Commission will not consider the Petition’s merits until after the comment period closes. If the Commission decides that the Petition has merit, it may begin a rulemaking proceeding. The Commission will announce any action that it takes in the *Federal Register*.

Dated: July 29, 2021

On behalf of the Commission,

**Shana M. Broussard,**

*Chair,*

*Federal Election Commission.*

BILLING CODE: 6715-01-P

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